



CONNECTICUT ASSOCIATION OF
REALTORS[®] INC.

Statement on

**H.B. 6510: An Act Concerning the Regulation of Private Transfer fees and
the Valuation of Real Estate.**

SUPPORT

Submitted to the Joint Committee on Insurance and Real Estate
March 8, 2011

By Eugene A. Marconi, General Counsel
Connecticut Association of REALTORS[®], Inc

Good afternoon, Chairman Crisco, Chairman Megna, and members of the committee. My name is Eugene Marconi and I am the general counsel of the Connecticut Association of REALTORS. I have the privilege of testifying on behalf of the Association's nearly 17,000 members in support of H.B. 6510: An Act Concerning the Regulation of Private Transfer Fees and the Valuation of Real Estate. The Association thanks the Chairs and the Committee for raising this bill but would ask for the Committee's consideration of several technical changes that would improve the bill language.

Private transfer fees are Wall Streets latest "financial innovation". The private transfer fee is imposed by a developer as part of the deed covenants and restrictions in a real estate development. The deed covenant requires the payment of a percentage of the sales price to the developer or the developer's assignee whenever property in the development is transferred. The developer will then assign the rights to this income stream to a financial firm in return for a lump sum payment. The financial firm will then securitize this income stream to be sold to investors. Does this sound familiar?



The Voice for Real Estate™ in Connecticut

111 Founders Plaza, Suite 1101, East Hartford, CT 06108-3212
Tel: (860) 290-6601 | Toll Free: (800) 335-4862 | Fax: (860) 290-6615
www.ctrealtor.com

Private transfer fees of this nature are legally questionable since they do not “touch and concern” or benefit the subject land itself. Individual home owners however, do not have the wherewithal to challenge these fees in court, and the fees serve only as an additional, private conveyance tax on property. Even though the developer and the developer’s financier collect these fees, there is nothing to guarantee that any part of the fee will inure to the benefit of the owners in the development. For these reasons, 19 states have already banned or severely restricted these fees.

The Association would ask for the inclusion of a provision forbidding a consumer from waiving a private transfer fee ban. This language was included in early drafts of the bill but appears to have been inadvertently dropped in the version of the bill before the committee. We understand that Connecticut Attorneys Title Insurance Company is requesting an additional change which we would also support. Our Association would ask that the Committee support passage of this bill.

The Association also supports section 2 of the bill. Section 2 seeks to permit real estate licensees to service mortgagees and attorneys who wish to have a market analysis for their own internal purposes, but do not need or want full-blown appraisals. Apparently, the appraisal community has either been unable or unwilling to meet this demand, and satisfying this demand has fallen upon real estate licensees. The Association believes that there is little harm in permitting sophisticated parties such as mortgagees and attorneys to decide whether they require a market analysis or the time and expense of a full blown appraisal. Please note that nothing in this bill would permit the use of a market analysis instead of an appraisal in order to originate a mortgage loan and the law would continue to forbid real estate licensees to label such a market analysis as an “appraisal.”

The Association would ask that Section 2(b) be made consistent with the mention of mortgagees and attorneys in Section 2(a) by simply inserting the word “mortgagees” along with “attorneys” in the new (D) of Section 2(b).

Thank you for your consideration and I look forward to any questions or comments the committee may have.

